

Remarks

The Office Action mailed July 24, 2009 has been received and reviewed. Claims 77, 79, 82, and 85 having been amended, the pending claims are claims 2-26, 60, and 75-121. Reconsideration and withdrawal of the rejections are respectfully requested.

Double Patenting Rejection

Claims 2-8, 11-19, 21-26, 60, 75-78, 82-84, 88-94, 97-101, 103-107 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 94-117 of copending Application No. 10/728,439 and claims 1-4, 6-35, 37-39, and 45-50 of copending Application No. 10/728,446. Claims 2-8, 11-19, 21-26, 60, 75-78, 82-84, 88-94, 97-101, 103-107 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 and 5-28 of copending Application No. 10/729,114 in view of Asmus (U.S. Patent No. 5,270,358). Upon an indication of otherwise allowable subject matter, and in the event these rejections are maintained, an appropriate response will be provided.

The 35 U.S.C. §103 Rejection

The Examiner rejected claims 2-8, 11-19, 21-26, 60, 75-78, 82-84, 88-94, 97-101 and 103-107 35 U.S.C. §103 as being unpatentable over Lorenzi et al. (U.S. Patent No. 6,217,889). Each independent claim having been amended, this rejection is rendered moot. Insofar as it applies to the present claims, this rejection is respectfully traversed.

Lorenzi et al. disclose a water insoluble substrate comprising a creped nonwoven layer and a cleansing component, including a lathering surfactant, disposed adjacent to said creped nonwoven layer. Although the nonwoven includes a synthetic polymer, the article is a "personal care article suitable for cleansing" (see, e.g., Abstract). It is not a wound dressing. Accordingly, the cleansing component would be subject to being washed or dissolved off the substrate. In contrast, Applicants' claims recite a composition disposed on a substrate, wherein the substrate includes a hydrophobic phase. As defined at page 10, lines 13-14, a hydrophobic

material is “antagonistic to shedding, tending not to combine with, or incapable of dissolving in water.”

Although Lorenzi et al. do disclose a polymeric gelling agent in the form of particles (column 35, lines 21-23) and silver nitrate as an anti-viral agent (column 31, lines 63-64), there is no teaching or suggestion that the silver nitrate is incorporated within the gelling agent particles. Also, there is no teaching or suggestion that the techniques used to make the article of Lorenzi et al. would necessarily result in incorporating at least a portion of anti-viral bioactive agent within the gelling agent particles.

Furthermore, the Examiner suggested at page 3 of the Office Action that the polyurethane and polyesters in Lorenzi et al. could be the organic polymer matrix of Applicants’ polymer composition (that is disposed on a substrate). It is noted, however, that this reference to polyurethane is in the context of the substrate of Lorenzi et al. (column 4). That is, the “polyurethane foam and polyesters” the Examiner referred to at page 3 of the Office Action are materials that form the substrate. They are not part of a composition that forms a polymer mixture including the microparticles, wherein at least a portion of the bioactive agent is incorporated within the microparticles, which is disposed on a substrate, as is recited in Applicants’ claims.

Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

Amendment and Response

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Serial No.: 10/728,577

Confirmation No.: 8901

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For: POLYMER COMPOSITIONS WITH BIOACTIVE AGENT, MEDICAL ARTICLES, AND METHODS

Summary

It is respectfully submitted that the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives at the telephone number listed below if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that this paper is being transmitted via the U.S. Patent and Trademark Office electronic filing system in accordance with 37 CFR §1.6(a)(4) to the Patent and Trademark Office addressed to the Commissioner for Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23rd day of October, 2009.

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